

EXHIBIT B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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UTHERVERSE GAMING LLC,) CASE NO:
Plaintiff,) 2:21-CV21-799-RSM-TLF
v.) Seattle, Washington
EPIC GAMES INC.,) August 16, 2022
Defendant.) 9:00 a.m.
)) *Markman Hearing*
)) Zoom

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

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1 the specification that address the -- some of the problems that
2 the '605 Patent solves.

3 And the best way I can kind of characterize it, Your Honor,
4 is it allows you to experience -- not just experience, but
11:04:36 5 interact with an event that took place in the past. Think of
6 all those times where -- you know, throughout your life where
7 you couldn't go to a particular event because of a work
8 commitment or something along those lines. And your friends the
9 next day are like, oh, my God, you should have been there, it
11:04:52 10 was -- it was -- you know, this guy came on stage, it was a
11 once-in-a-lifetime sort of thing. And you're like, wow, I
12 missed out on that, that sucks. Well, the '605 Patent to some
13 extent, Your Honor, solves that, albeit in a virtual world. It
14 allows you, again, to go back and experience that event that
11:05:07 15 took place like it's happening the first time.

16 Now, to be clear, it's not merely watching a video or
17 watching a replay, because if you could watch a YouTube video,
18 you just -- you hit the video and you watch it and it's done.
19 You know, you have tutorials from both parties. You've watched
11:05:22 20 those -- you've probably watched them a couple of times, but you
21 didn't interact with them, you didn't engage with them, you just
22 sat there and watched 'em.

23 What the '605 Patent does, and I think that's important for
24 understanding the context of the two terms we're going to
11:05:34 25 discuss for construction, is it allows you not only to go back

1 and experience that, but to interact with the event like you
2 were there for the first time. So it allows you today to go
3 back and experience something that happened yesterday like you
4 were actually there.

11:05:46 5 So how does that happen? Well, part of that involves one
6 of the terms that's at issue here, Your Honor, and that's the
7 "initial scene state." And as you can see here from Figure 4 of
8 the '605 Patent, there's a number of different scenes or
9 different states of the scene. And if you recall from the
11:06:03 10 tutorial, we talked about game state. And here we see different
11 states of the game, the initial scene state, an intermediate
12 state, and a final state.

13 And so keeping that in mind, as the name kind of suggests,
14 there's a beginning, a middle, and an end. And the middle
11:06:18 15 obviously encompasses quite a bit, but there's different points
16 in time is what these different game states happen to be.

17 Now, we've talked about throughout the course of the day,
18 Your Honor, an issue that Utherverse Gaming has with the Epic
19 proper constructions that by and large the parties agree on most
11:06:36 20 of the claim. And again, this is one of these claims where
21 there's by and large a significant amount of agreement.

22 If you look at the Utherverse Gaming construction, you see
23 an initial state of a scene, including at least a position and
24 orientation of objects in a virtual world. Well, there's
11:06:49 25 largely agreement there, as you can see here on the white space,

1 playing back a recorded experience in a virtual world system by
2 retrieving and playing a recorded experience file that contains
3 a recorded experience.

4 And, you know, it's our position that Epic's definition
11:12:37 5 says just that, a recorded experience file is a recording of a
6 prior experience in a virtual environment.

7 Again, the specification makes it clear that the purpose of
8 the invention is to allow a player to reexperience an event that
9 already happened. It gives as examples a virtual house tour, a
11:12:56 10 wedding, and a student lecture, and describes why a player might
11 want to reexperience these things after they've already
12 occurred. And, you know, you'll see here that the specification
13 says to recall suggestions from the contractor for the virtual
14 house, to reexperience the event on their anniversary, and to
15 refresh their knowledge, respectively.

16 So the specification, again, makes it clear that an
17 experience may be experienced by users in real time and then
18 recorded to be experienced at a later time. And this is what
19 they mean by a recorded experience.

11:13:31 20 Now, our problem with Utherverse's definition is that it
21 doesn't actually say what a recorded experience file is, but
22 rather how it's made, just rehashing the claim language.

23 And the problem with this definition is that it includes
24 virtually every 3D movie or game ever made, including not just a
11:13:52 25 recorded experience, but also brand-new gameplay. And I'd like

1 to explain that a little.

2 So here you have an example of a 3D movie or a 3D scene
3 being created. The model of the castle is manipulated so that
4 when changes to the scene occur over time, and you'll see
11:14:10 there's frames at the bottom of the screen here, I don't know if
5 you see my mouse, but I can -- here, I'll put that -- the
6 highlighter. Here at the bottom of the screen you can see these
7 individual frames, and those represent time periods. And as
8 that model is manipulated, you know, in the next scene you'll
9 see that there are balls from a catapult that are being thrown
11:14:28 10 at the castle, and then parts of the castle explode. The
11 changes are saved over time so that you effectively see the
12 sequence of events while the file is playing.

14 So when the game is played, the castle is rendered so that
11:14:47 15 events and other changes to the scene occur while the player is
16 playing the game. And here, we have a game featuring Gandalf
17 from *Lord of the Rings*. And you'll see the catapult exploding
18 in the castle and the changes that are being made there.

19 So Utherverse's definition arguably includes this process
11:15:04 20 because it is just saying you have the scene and the changes to
21 the scene over time, and I can go back to the definition to
22 demonstrate that. And again, the problem is that the '605
23 Patent is not directed to new gameplay, it is directed to
24 recording previous gameplay or a prior event so that another
11:15:30 25 player can experience that event as if it were happening in real

1 time. And the inventors in the prosecution history specifically
2 disclaimed new gameplay, describing the invention as allowing
3 users to participate in past events. And you'll see these
4 portions of the prosecution history here. It says in general
11:15:47 5 terms, the claims of the instant invention recite playback of
6 objects of the recorded experience file in a new instance,
7 allowing users of the at least one-client device to participate
8 in the recorded experience file, as opposed to participating in
9 subsequent play.

10 The instant invention allows users to participate in past
11 events; in other words, travel back in time and participate in a
12 recorded experience. And again, distinguishing from the prior
13 art, saying that the prior art provides for new gameplay
14 beginning at a target point, and modification of the gameplay
11:16:18 15 subsequent to the target point, rather than experiencing an
16 event that already occurred. And Epic's definition includes
17 this disclaimer and this language as well.

18 So it's our position that Epic's definition is consistent
19 with the specification, the prosecution history, and the entire
20 context and purpose of the invention, whereas Utherverse's does
21 not.

22 Okay. Now I'm happy to move on to initial scene state. I
23 think these terms go very well together.

24 So, again, the claims describe generating a recorded
11:16:54 25 experience file by saving an initial scene state and changes to

1 environment.

2 So the claims, the specification, and the overall purpose
3 of the invention demonstrate that the proper construction of
4 initial scene state includes avatars that are rendered at the
11:20:11 5 beginning of a recording, as the specification states.

6 Thank you, Your Honor. That's all for me.

7 THE COURT: Thank you, Counsel.

8 MR. SPRINGER: Thank you, Your Honor.

9 So Ms. Bengfort's presentation included both initial scene
10 state and recorded experience file, which is fine. If the Court
11 would indulge, I'd like to go through our recorded experience
12 file and I guess sort of hook in that because we didn't present
13 that particular term just yet, so...

14 So let me share my screen here.

11:20:45 15 So coming out of the initial scene state discussion, you
16 know, essentially it sounds as if Epic Games agrees with us
17 because the recitation of the avatar actually appears in the
18 claim, so having it be part of the construction and both the
19 claim would actually make it redundant and repetitive. But,

11:21:03 20 nevertheless, moving from that initial scene state into here to
21 the recorded experience file, we see the discussion of the
22 initial scene state changing over time, and that's that concept
23 we discussed earlier, Your Honor, with respect to the various
24 states of the game, the initial, the intermediate, and the
11:21:21 25 final. But we're obviously talking about here the -- commencing

C E R T I F I C A T E

I, Marci E.C. Chatelain, CCR, RPR, RMR, CRR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do hereby certify that I was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I have caused said stenographic notes to be transcribed under my direction and that the foregoing pages are a true and accurate transcription to the best of my ability.

Dated this 23rd day of August, 2022.

/s/ Marci E.C. Chatelain

Marci E.C. Chatelain, CCR, RPR, RMR, CRR
Federal Court Reporter